

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:15-CV-559

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| CITY OF GREENSBORO, LEWIS A.) | |
| BRANDON III, JOYCE JOHNSON,) | |
| NELSON JOHNSON, RICHARD) | |
| ALAN KORITZ, SANDRA SELF) | |
| KORITZ, AND CHARLI MAE SYKES) | |
| |) |
| Plaintiffs,) | |
| |) |
| v.) | MEMORANDUM OF LAW |
| |) IN SUPPORT OF DEFENDANTS' |
| GUILFORD COUNTY BOARD OF) MOTION TO DISMISS OR JOIN | |
| ELECTIONS,) NECESSARY PARTIES | |
| |) |
| Defendant,) | |
| |) |
| MELVIN ALSTON, JEAN BROWN,) | |
| HURLEY DERRICKSON, STEPHEN) | |
| GOLIMOWSKI, WAYNE GOODSON,) | |
| JIM KEE, EARL JONES, SHARON) | |
| KASICA and WILLIAM CLARK) | |
| PORTER,) | |
| |) |
| Defendant-Intervenors.) | |

**DEFENDANT-INTERVENOR'S MOTION TO DISMISS FOR FAILURE TO
JOIN A NECESSARY PARTY AND MOTION TO JOIN NECESSARY PARTIES**

Melvin Alston, Jean Brown, Hurley Derrickson, Stephen Golimowski, Wayne Goodson, Earl Jones, Sharon Kasica, Jim Kee, and William Clark Porter ("Defendant-Intervenors") come before this Court and respectfully move to dismiss the Complaint for failure to join necessary parties pursuant to Federal Rule of Civil Procedure 12(b)(7).

The matters complained of by the Plaintiffs center around legislation passed by the North Carolina General Assembly, enacted by Governor Patrick McCrory, and subject to enforcement and oversight by the North Carolina State Board of Elections. Therefore, the Defendant-Intervenors contend that the following persons or entities are necessary parties to this action:

- (1) The State of North Carolina
- (2) Governor Patrick McCrory
- (3) The North Carolina State Board of Elections
- (4) Kim Westbrook Strach, Executive Director of the N.C. State Board of Elections

In the alternative, the Defendant-Intervenors request that this Court joins those same parties pursuant to Federal Rule of Civil Procedure 19. Pursuant to Rule 19(a)(1)(a), the parties above must be joined as this Court cannot accord complete relief among existing parties to this action. Here, the Court cannot afford complete relief to the Plaintiffs without joining parties responsible for passing and enforcing the law. The Guilford County Board of Elections has stated that its duties are ministerial (See Doc. 27) and therefore it is unable to actively defend this lawsuit. Because of those inherent limitations with the existing Defendant and Defendant-Intervenors, those responsible for enforcing the law must be named as parties hereto in order to afford the relief sought by the Plaintiffs.

WHEREFORE, Intervenors respectfully request that this Court dismiss the complaint for failure to join a necessary party, or order the joinder of those parties within this action in the alternative.

This 15th day of January, 2016.

NARRON, O'HALE AND
WHITTINGTON, P.A.

By: /s/ Benton G. Sawrey
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CERTIFICATE OF SERVICE

The undersigned attorney certifies that this day he has electronically filed the foregoing Amended Motion to Intervene in the above-titled action with the Clerk of Court using the CM/ECF system, which provided notice of such filing to:

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Respectfully submitted this 15th day of January, 2016.

/s/ Benton G. Sawrey
Benton G. Sawrey